

**REPORT - PLANNING COMMISSION MEETING**  
**July 24, 2003**

**Project Name and Number:** Palm Avenue Planned District (PLN2002-00336)

**Applicant:** Santa Clara Development Company

**Proposal:** To consider a Preliminary and Precise Planned District rezoning for a five lot single-family development. The proposed project includes the retention of the existing single-family house and the construction of four new single-family houses, as well as associated site work including creek bank restoration and construction of a public path.

**Recommended Action:** Recommend to City Council

**Location:** 42052 Palm Avenue, Mission San Jose Planning Area

**Assessor Parcel Number(s):** 513-0300-014-00

**Area:** 1.61 acres

**Owner:** Santa Clara Development Company

**Agent of Applicant:** N/A

**Consultant(s):** Civil Engineering Associates  
Architopia  
Paul Welschmeyer, Architect

**Environmental Review:** A Mitigated Negative Declaration has been prepared for this project.

**Existing General Plan:** Low density residential, 3-5 units per acre, foot and bicycle trail

**Existing Zoning:** R-1-10, Single-family residence district

**Existing Land Use:** Existing single-family house.

**Public Hearing Notice:** Public hearing notification is applicable. A total of 66 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on July 14, 2003. A Public Hearing Notice was delivered to The Argus on July 9, 2003 to be published by July 14, 2003.

**Executive Summary:** The applicant is requesting a Planned District rezoning to allow four new houses and the preservation of one existing house. As part of the project, the applicant will also complete various improvements to the existing creek (as required by the Alameda County Flood Control and Water Conservation District) and install a pedestrian path and maintenance road (as required by the City of Fremont and the Alameda County Flood Control and Water Conservation District) and then dedicate the land to the Alameda County Flood Control and Water Conservation District. The City of Fremont will receive an access easement for the proposed pedestrian path.

**Background and Previous Actions:** The applicant originally submitted a Preliminary Review Procedure application (PLN2001-00297) for this project. Following staff response, the applicant submitted a formal application for a Planned District rezoning.

**Project Description:** The four new houses proposed consist of one typical floorplan, modified slightly to fit each lot. Two distinct elevations are proposed, but due to the unique lotting pattern (two lots at the rear and two at the front, with one oriented parallel to the street and the other perpendicular), it is unlikely that all houses will be seen

at the same time or in the same manner. Additionally, the existing circa-1904 house at the center of the site (as viewed from Palm Avenue) will be preserved with only a minor addition to the rear and the construction of a new two-car garage. The existing garage/shed and the rear porch will be removed. As part of the project, the applicant will also complete various improvements to the existing creek (as required by the Alameda County Flood Control and Water Conservation District) and install a pedestrian path and maintenance road (condition B-2) (as required by the City of Fremont and the Alameda County Flood Control and Water Conservation District), and then dedicate the land to the Alameda County Flood Control and Water Conservation District. The City of Fremont will receive an access easement for the proposed pedestrian path. The applicant will also complete street improvements, and in total will dedicate 49% of the gross area of the project site to the City of Fremont and the Alameda County Flood Control and Water Conservation District.

Due to the presence of the creek, numerous environmental studies were required to be undertaken for the project prior to the preparation of the environmental documents required by the California Environmental Quality Act (CEQA) (see attached initial study and draft mitigated negative declaration). These studies included wildlife surveys, creek bank studies, Phase I and II environmental site assessments, etc. Additionally, the environmental documents required review by numerous public agencies, including but not limited to Alameda County Flood Control and Water Conservation District, United States Fish and Wildlife Service, United States Army Corps of Engineers, and the California Department of Fish and Game. No responses requiring additional environmental documentation were received from these or other agencies during the circulation and comment period of the environmental documents.

The project site is surrounded entirely by single-family residential uses developed at similar densities to that proposed. Mission San Jose High School is approximately one block to the east at the corner of Palm Avenue and Mission Boulevard.

#### **Project Analysis:**

- **General Plan Conformance:** The existing General Plan land use designation for the project site is low density residential, 3 to 5 units per acre and foot and bicycle trail. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

<u>Goal H 1</u>	<u>Conservation and enhancement of existing residential neighborhoods.</u>
<u>Goal H 2</u>	<u>High quality and well-designed new housing of all types throughout the city.</u>
	Although situated on a unique lot and responding to various unique circumstances (e.g. the creek and the large amount of land to be dedicated), the proposed development is both within the allowable density range and consistent with the surrounding neighborhood. Additionally, the proposed architecture is generally appropriate to the individual project and also compatible with the existing house and the surrounding neighborhood.
<u>Policy LU 1.18</u>	<u>Single family detached homes shall be proportional to their lots.</u>
<u>Policy LU 1.19</u>	<u>For single family residential developments, the City shall encourage within each project varied setbacks, curves in roadways, variety in frontages, and appropriate landscape treatment to create a visually attractive street frontage.</u>
	Despite the odd shaped lots, the proposed houses are proportional to their lots due to the 'stepping back' and reduced massing of the second floors, and to the attention paid to the location and configuration of the rear yards for the units. Additionally, high quality landscaping will be provided at all visible yards.
<u>Objective T 2.4</u>	<u>A safe and convenient bicycle network that facilitates bicycle travel for commuting to work, school, shopping, and for recreation.</u>
	The proposed project would install improvement for the next leg of the foot and bicycle trail crossing Palm Avenue, and will eventually continue through to the south and tie in to the remainder of the City's trail system.

- **Zoning Regulations:** The existing single-family zoning for the site, R-1-10, typically requires a minimum lot size of ten thousand square feet. The proposed lot sizes range from approximately six to nine thousand square feet. This is primarily due to the fact that the applicant is required to dedicate over 49% of the gross site area to either the City of Fremont or Alameda County Flood Control and Water Conservation District. General Plan densities are based on gross site area, and the proposed density of 3.1 units per acre does fall within the allowed 3 to 5 units per acre designation. Staff believes that although the lot size is smaller than that typically required, the overall project and the Planned District are appropriate given the proposed architecture of the new houses, the preservation of the existing house, and the overall site design (in which two of the new houses are located at the rear of the site and will not be easily visible).

Due to the unique shape of the lots (required because of the unique shape of the original lot, the location of the creek, and the amount of land to be dedicated), the new houses are proposed with minimal setbacks in most cases. These setbacks are in no case less than five feet for the main portions of the houses and three feet for the garage elements (condition B-3). The applicant and the architect have designed the houses so that each will have a private, usable yard area, and so that each will also have 'stepped back' and reduced massing at the second stories in order that the overall bulk of the houses will be minimized.

The applicant is proposing two covered parking spaces per unit, which meets FMC standards. Heights of the houses are within the limits allowed.

- **Circulation/Access Analysis:** The project site frontage is on Palm Avenue, an existing residential collector street. Of the five units, only two, the existing home and the new home on lot 5, have exclusive driveways proposed on Palm Avenue. The other three units, lots 1 through 3, share one driveway on Palm Avenue. A private street is proposed to provide vehicular and pedestrian access to Lots 1 through 3.

Combined Maintenance Road and Foot/Bicycle Trail: The Fremont General Plan designates a foot and bicycle trail along Mission Creek. Currently the trail ends on the west side of Palm Avenue. The applicant proposes to provide the foot and bicycle trail combined with a maintenance road for the Alameda County Flood Control and Water Conservation District (ACFC), similar to the existing trail west of Palm Avenue. The City's standard for combined foot and bicycle trails is a ten-foot wide paved trail within a twenty-foot wide trail right-of-way. The proposed trail has a fifteen-foot paved width within a twenty-five foot wide easement. The extra paved width conforms to the ACFC standard for maintenance roads along channels.

The developer has been working with the ACFC regarding dedication of land along the creek to ACFC for flood control purposes. ACFC currently owns property along the creek both north and south of this project site. The proposed dedication will give ACFC access to both sides of the creek for maintenance purposes. Because the trail does not continue on south of the project site, for safety reasons public access to the trail will be prohibited until such time as the trail can connect to a public street or form of public access. The developer is required to construct the trail, including required fencing and gates, in accordance with the Subdivision Ordinance. Conditions of approval regarding the trail will be included as part of the tentative tract map application, including conditions regarding disclosure to potential buyers and future property owners that the trail will be opened for public access.

- **Street Improvements:** The project site has unimproved frontage on Palm Avenue and proposes construction of a new Private Street to serve three of the lots. Street improvements are required for both streets. Conditions of approval regarding street improvements will be part of the tentative tract map. The following describes the required improvements and street right-of-way dedications (if any) for each street.

Palm Avenue is a residential collector street with an ultimate right-of-way width of sixty feet. This project will complete a currently unimproved gap in the street improvements between Fontes Drive and Mission Creek. A 10-foot wide right-of-way dedication, approximately 200 feet in length, is required along the southern portion of the Palm Avenue frontage. The remaining right-of-way was acquired as part of a City project to install the box culvert under Palm Avenue in 1965.

Required street improvements for Palm Avenue include, but are not limited to, installation of curb, gutter, sidewalk, landscaping, streetlights, storm drain facilities, and undergrounding of existing overhead

utilities. Improvements also include installation of a driveway for the combined trail and County maintenance road along Mission Creek.

Off-site improvements are required along the ACFC Palm Avenue frontage. The developer is responsible for installing sidewalk to the north, between the project site and the end of the existing sidewalk above Mission Creek.

Private Street (unnamed): A private street is proposed to serve as access to lots 1, 2, and 3. The private street is required in order for lots 2 and 3 to have the frontage required in the Subdivision and Zoning Ordinance. The proposed private street has a pavement width of 20 feet from Palm Avenue to the boundary of lot 2, at which time the pavement width decreases to about 11 feet. The private street right-of-way width remains constant at 21 feet. No sidewalk is proposed for pedestrian access from Palm Avenue to lots 1, 2, and 3, however, due to the minimal anticipated traffic levels staff does not believe that this will be an issue.

The development policy for private streets includes standards for private streets and includes additional provisions, which may be required by the Planning Commission. The project does not conform to all the policies or provisions. Although a private street application will be brought forth in the near future, along with the tentative tract map and preliminary grading plan applications, the developer is asking the Planning Commission to recommend approval of the project site plan as is, including the following deviations from the policies and provisions:

- **Right-of-way width:** A minimum right-of-way width of forty feet is required for a private street serving 3-5 residential units. The project proposes a twenty-one foot wide private street right-of-way.
- **Parking:** A minimum of four off-street parking spaces shall be provided for each unit, exclusive of any garage or carport. The project only proposes area for two parked vehicles in front of each unit's garage door. Staff is recommending changes to the design that will provide more space for parking on lot 2 and 3. All other parking for residents or guests will be on-street parking along Palm Avenue.

Staff generally concurs with the applicant that the proposal is appropriate as part of the Planned District process, as conditioned, due to the minimal length of the street and the fact that it only serves three single-family residences. It was at staff's request that the applicant relocated the driveway of lot 1 from Palm Avenue to create a more pedestrian friendly streetscape (by not having the garage door facing the public street/sidewalk). Additionally, this adds one more on-street parking space at Palm Avenue by removing the otherwise required driveway apron.

In order to provide some added room for additional parking for the future owner of lot 2, staff is recommending changing a portion of the project design. Staff has annotated the Site Plan (sheet 2) and included conditions of approval, reflecting the proposed change. Specifically, in addition to the paved area between the lot 2 garage door and the private street right-of-way, the paved area between lot 2 and lot 3 shall be designed to provide one vehicle parking space on lot 2, for the exclusive use of the owner of lot 2 (condition B-4).

### **Design Analysis:**

- **Architecture:** As recommended by Planning staff, the applicant is proposing to preserve the existing single-family house. The applicant is proposing a minor addition at the rear as well as a new two-car garage with storage space above. Staff generally believes that the proposed modifications are appropriate. Staff is requiring that any future work be consistent with the "Secretary of the Interior's Standards for Rehabilitation" so as not to affect any potential current or future historical value (condition C-3) (also see enclosed draft mitigated negative declaration), and staff believes that the currently proposed modifications generally fit this requirement. Only minor modifications to the proposed plans are conditioned to be changed to insure consistency, including not allowing the proposed vehicle gate shown on sheets 2, 3, and 4 (not shown on any other plans), reusing the existing windows instead of the two new windows shown at the north elevation

of sheet 20 (to meet Standard 2, which states that “the removal of historic materials... shall be avoided”), and to remove the proposed new window at the south elevation (condition C-5).

The four new houses proposed have very similar floorplans, which are differentiated by elevation treatments, orientation to Palm Avenue, and location onsite (with two of the homes located at the rear, where they will not be easily visible). As mentioned previously, due to these reasons and the fact that the existing house will remain in the center of the site, staff generally believes that the proposal is appropriate.

The applicant has worked with staff to insure compatibility of the new houses with the existing, so that the existing house will not be overshadowed by the new development. To this end, only basic stucco and wood siding, and flat concrete tile roofs, are proposed. The houses are of a generally contemporary form and massing, with simple craftsman-style detailing including wood trim around the windows, wood brackets at the eaves, etc. The houses are also proposed with all single- or double-hung windows or casement windows. Additionally, the second stories of the units have been designed in a way to minimize the appearance of the overall massing. Staff generally believes that the overall form, style, and location of the proposed houses are appropriate, but is including a minor condition that no ‘grids’ be used in the new houses’ windows in order to insure compatibility with the existing house and not overshadow it by providing a different or a significantly higher level of detailing (condition C-6).

- **Landscaping:** The project proposal includes full landscaping for all visible yard areas (condition D-2), including the installation of various trees, shrubs, and groundcover. The applicant will also provide street trees with the required street improvements along Palm Avenue. The private yards of the residences will be left for homeowner improvements.

The applicant is proposing to have three houses (lots 1, 2, and 3) served off of a single drive aisle, which will be a private street. City standards typically require that such a private street have a larger right-of-way width, however, due to the minimal length of the street and the fact that only three single-family residences are proposed to be served by it, staff is recommending approval of the project as shown. However, as justification for both the reduced width of the street and the Planned District rezoning, staff is including conditions (to which the applicant has agreed) that the private street be provided with a special or accent paving treatment (condition D-3).

Various trees are proposed for removal as part of this project. The majority of the trees to be removed are fruit and nut trees and exempt from the provisions of the Tree Removal Ordinance, or, are too small to qualify for the Tree Removal Ordinance. Any tree onsite which does qualify for the Ordinance will require appropriate replacement (condition D-5). However, many primarily eucalyptus trees within the creek area are also required to be removed by the Alameda County Flood Control and Water Conservation District prior to the dedication of the creek land. The removal of these trees is required to both stabilize the banks of the creeks (eucalyptus trees are generally more fragile than most species) and to reestablish native species (in contrast to the imported eucalyptuses) in their place. Because these trees are required to be removed by Alameda County Flood Control and Water Conservation District, and because they will generally be replaced with native trees, the City’s Tree Preservation Ordinance will not be applicable to this portion of the project.

Alameda County Flood Control and Water Conservation District is requiring that the applicant install a black vinyl-covered chain link fence along the property line with the creek. The applicant is proposing to leave this fence as is, so that future residents will have visual access to the creek. Other fences onsite are proposed to be of a decorative wood design. Staff is conditioning that no additional fence be allowed parallel to the chain link fence, as this could have negative aesthetic impacts (condition D-9).

- **View Impacts:** The project site is essentially flat, and the proposed new houses are within the height limits established for residential districts. The development of the site will not have negative view impacts.

Additionally, the applicant is proposing the removal and/or trimming of numerous existing (primarily) eucalyptus trees, as shown on Exhibit “A”. This work is being required by the Alameda County Flood Control and Water Conservation District prior to the dedication of the creek land. The removal of many of these very

tall trees will have view impacts for neighbors, however, it is required to both stabilize the banks of the creek (eucalyptus trees are generally more fragile than most species) and to reestablish native species (in contrast to the imported eucalyptuses) in their place. Eventually, as the new, native species of trees take root, the general existing view will return.

**Grading/Topography:** The project site is currently improved with an existing single-family dwelling, accessory structures, and several trees, including a small fruit tree orchard. The northern boundary of the project site is Mission Creek and there are several trees, mostly eucalyptus, along the creek banks. The developer proposes to retain and improve the existing single-family dwelling, construct a new detached garage, and remove the accessory structures and several trees. Riparian enhancement and creek stabilization work is proposed along Mission Creek. Alameda County Flood Control and Water Conservation District has been working with the developer regarding the preparation, review, and approval of reports, plans, and specifications for the work within the creek.

The site area proposed for the development of four new houses slightly slopes down to the northwest, following the path of flow in Mission Creek. Site grading consists of separating the residential development from the combined trail and maintenance road along the creek. Runoff from the roofs, yards, and driveways of the homes is directed to flow away from the creek and towards Palm Avenue. The maintenance road is graded to drain away from the creek and into a swale that flows towards an inlet near Palm Avenue.

Cuts and fills up to 3.5 feet are proposed in some locations. Retaining walls are proposed along the entire southern boundary, a portion of the eastern boundary, and on the east and north side of lot 4. Retaining wall heights are typically less than 2 feet, but on the southern boundary of lot 2 the wall height increases to 3 feet. Overall the project engineer estimates grading to be 1,100 cubic yards of cut and 165 cubic yards of fill, for total grading of 1,265 cubic yards. A preliminary grading plan application will accompany the tentative tract map application for Planning Commission review after rezoning is complete.

**Drainage:** The public drainage facility nearest this site is an existing 24-inch storm drain in Palm Avenue, which connects to the Mission Creek box culvert under Palm Avenue. The on-site storm drain system is a series of field inlets, catch basins, and grassy swales. A private storm drain easement will be established over the private street. Additionally the project civil engineer has proposed connecting an underground storm drainpipe from lot 2 through lot 3, which will require a private easement.

**Urban Runoff Clean Water Program:** The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. Adopted regulations require discharges of storm water associated with new development and construction to submit a Notice of Intent (NOI) to the State of California for activities disturbing more than one acre of land. The NOI is to include the development and implementation of a storm water pollution prevention plan emphasizing best management practices. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

**FEMA Flood Zone:** Mission Creek, Line L (Zone 6), which bounds the northeastern side of the project site, is designated as a special flood area, as delineated on the Flood Insurance Rate Map (FIRM) 065028-0031B, revised May 2, 1983. The creek is classified as Zone A, areas of 100-year flood, base flood elevations and flood hazard factors not determined. According to the FIRM, the Zone A area is contained within the channel. Although the proposed residential structures do not encroach into the special flood hazard area, erosion control and creek stability work is proposed within the creek. Work within the special flood hazard area shall be designed and constructed so as not to increase peak flows within the creek.

**Applicable Development Impact Fees:** The four new units of this project will be subject to Citywide Development Impact Fees (condition A-4). These fees may include fees for fire protection, park facilities, park dedication-in-lieu, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

**Waste Management:** This project involves residential development, and it shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. Trash and recycling areas for this project will either be located within the garage or within private yard areas.

**Environmental Analysis:** An Initial Study and Draft Negative Declaration, has been prepared for this project. The Draft Negative Declaration includes mitigation measures, which, as implemented in the conditions of approval for the project, would reduce the identified impacts to non-significant levels. A detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission and City Council.

**Response from Agencies and Organizations:** No outside comment had been received at the time of publication of this report.

**Enclosures:**

Exhibit "A"	Site, Architecture, Landscape, and Civil Plans
Exhibit "B"	Findings and Conditions of Approval
Draft Mitigated Negative Declaration	
Applicant's Justification Statement (Informational)	
Development policy for Private Streets (Informational)	

**Exhibits:**

Exhibit "A"	Site, Architecture, Landscape, and Civil Plans
Exhibit "B"	Findings and Conditions of Approval
Exhibit "C"	Color and Material Sample Board

**Recommended Actions:**

1. Hold public hearing.
2. Recommend the City Council approve the draft Mitigated Negative Declaration and find it reflects the independent judgement of the City of Fremont.
3. Find PLN2002-00336 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use, Housing, and Transportation Chapters as enumerated within the staff report.
4. Recommend PLN2002-00336 to the City Council in conformance with Exhibit "A" (Rezoning Exhibit)

**EXHIBIT "C"**  
**Findings and Conditions of Approval for**  
**PLN2002-00336 (Preliminary and Precise Planned District)**  
**Palm Avenue Planned District – Santa Clara Development**

**FINDINGS**

The findings below are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated July 24, 2003:

1. The proposed "P" district, or a given unit thereof, can be substantially completed within four years of the establishment of the "P" district.
2. That each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; that the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under another zoning district because the Planned District process provides for modifications to the zoning standards which result in a superior project, as conditioned.
3. That the streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and the project will not generate traffic in such amounts as to overload the street network outside the "P" district because the project will result in the dedication of and improvement to frontage along Palm Avenue, and because four new houses will not result in a significant increase in traffic.
4. That any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the Planning Commission and City Council. Based on the incorporation of superior architecture and landscaping, and the preservation of the existing house, this project, as conditioned, is found to meet this requirement.
5. That the area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development. This is an infill development, and all of the other land surrounding this site has already been developed.
6. That the "P" district is in conformance with the General Plan of the City of Fremont. The project conforms to the General Plan land use designation of Low Density Residential (3 to 5 dwelling units per acre) and is consistent with and implements the goals and policies of the Land Use and Housing Chapters of the General Plan.
7. That existing or proposed utility services are adequate for the population densities proposed. The site is well served by utilities. None of the responsible utility companies have stated they will be unable to provide the required services to the site.
8. All public improvements or facilities required as a part of this approval are directly attributable to the proposed development, and are required for reasons related to public health, safety and welfare.

**CONDITIONS**

**General Conditions**



- A-1 The project shall conform with Exhibit "A" (Site, Architecture, Landscape, and Civil Plans) and Exhibit "C" (Color and Material Sample Boards), and all conditions of approval set forth herein.
- A-2 Plans shall be submitted to the Development Organization for review and approval to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- A-3 Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Assistant City Manager or a designee if such modifications are in keeping with the architectural statement of the original approval. However, the Assistant City Manager shall retain the authority to determine the level of review required, including Planning Commission and City Council review.
- A-4 The four new units within the project shall be subject to all Citywide development impact fees. These fees may include, but are not limited to, fees for fire protection, park dedication, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance.
- A-5 Future residents of any lot adjoining the public path shall be provided with notice of the nature and future use of the path, and such notice shall be recorded on the deeds of these lots (lots 2, 3, and 5). Such notice shall be provided for review and approval by staff during the final map stage of the project.
- A-6 All provisions of the Mitigated Negative Declaration are incorporated into these conditions of approval. These provisions include:

**Mitigation #1:** *The project shall comply with standard dust suppression measures. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage. In areas where construction is delayed for an extended period of time, the ground shall be re-vegetated to minimize the generation of dust. A person shall be designated to oversee the implementation of dust control.*

**Mitigation #2:** *The applicant will be required to have a professional wildlife biologist approved by the City conduct a Burrowing Owl survey of the project site for biological resources of significance 30 days prior to any grading or ground disturbance to determine the presence of owls. If Burrowing Owls are found on the site, the California Department of Fish and Game shall be consulted to determine the best method of mitigating the impacts to the owls and habitat and such methods shall be employed for relocation. The Assistant City Manager or a designee shall approve the survey results.*

**Mitigation #3:** *Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5(e) and (f) will be followed to reduce impacts to a non-significant level.*

**Mitigation #4:** *To ensure that the existing house maintains its historical character and value, any proposed exterior work shall comply with all recommendations and standards of "The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings" (Grimmer and Weeks, 1997), subject to Planning staff review and approval. Wherever possible, existing materials shall be repaired and retained rather than replaced. Any material requiring replacement, such as the roof, shall be replaced with a similar material matching the original, subject to staff review and approval.*

Note: This requirement has been incorporated in current plans, but will continue to be reviewed through subsequent applications.

**Mitigation #5:** A Streambed Alteration Agreement may be required based on requirements of the California Department of Fish and Game before any work occurs within the bed or bank of Mission Creek. If this is determined to be the case, no work on the bank or the streambed will be allowed to proceed prior to acquiring the Streambed Alteration Agreement.

**Mitigation #6:** United States Army Corps of Engineer's (USACE) approval may be necessary before any work occurs within the bed or bank of Mission Creek. If this is determined to be the case, no work on the bank or the streambed will be allowed to proceed prior to acquiring USACE approval.

**Mitigation #7:** Project construction will be required to adhere to appropriate standards for residential and circulation areas with attendant drainage and landscaping, emphasizing storm water Best Management Practices intended to achieve compliance with the goals of the Alameda County Urban Storm Water Runoff Program in conformance with the Federal National Pollutant Discharge Elimination System (NPDES) program established by the Clean Water Act.

**Mitigation #8:** Best Management Practices elements shall be incorporated into the final site design to mitigate potential storm water, drainage, and water quality impacts for the project site.

Note: This requirement has been incorporated in current plans, but will continue to be reviewed through subsequent applications.

**Mitigation #9:** Hours of construction shall be limited to 7 a.m. to 6 p.m. Monday through Friday, and 9 a.m. to 6 p.m. Saturday. No construction shall be permitted on Sundays.

### **Site Planning**

- B-1 Prior to the removal of any existing structures, the applicant shall obtain a demolition permit from the City.
- B-2 The applicant is required to install a combination pedestrian path/maintenance road along the rear of the site adjacent to the creek, on the land to be dedicated to the Alameda County Public Works. Final design and construction of the path shall be subject to the review and approval of the City's Right-of-Way Landscape Division. The City shall be granted an easement for the use of the path as part of this project.
- B-3 Minimum building setbacks shall be three feet for garages and five feet for houses, as shown on Exhibit "A". Additionally, each house shall be provided with minimum private yard areas as shown on Exhibit "A".
- B-4 In addition to the paved area between the lot 2 garage door and the private street right-of-way, the paved area between lot 2 and lot 3 shall be designed to provide one vehicle parking space on lot 2, for the exclusive use of the owner of lot 2.

### **Building Design**

- C-1 The applicant shall provide automatic fire extinguishing systems for each structure within the development, subject to the review and approval of staff and the Fire Marshal during the Development Organization review process.
- C-2 No exterior additions or modifications to the residences, including the addition of pre-manufactured sunrooms, shall be permitted. This condition shall be incorporated into any CC&Rs for this project. Additionally, this condition shall be incorporated as a deed restriction for each lot within the development, subject to the review and approval of staff prior to the acceptance of the first Final Map for this project. If no Final Map is proposed, prior to issuance of the first building permit.

- C-3 Any future work on the existing single-family house shall be subject to Planning staff review and approval for consistency with "The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings" (Grimmer and Weeks, 1997).
- C-4 All garage doors shall be equipped with automatic garage door openers.
- C-5 The proposal for the existing single-family house shall be modified as follows:
- a. Rather than provide two new windows at the bedroom as shown on the north elevation, sheet 20 of Exhibit "A", existing windows shall be reused.
  - b. The "new window to match existing" shown on the south elevation of sheet 21 shall be eliminated. The window falsely imitates original windows, yet is installed at a different height, and is generally not compatible with the existing house.
  - c. The vehicle gate shown on sheets 2, 3, and 4 shall be eliminated.
- C-6 The proposal for the new single-family houses shall be modified as follows:
- a. Dimensional wood trim shall be provided around all windows. Stucco-covered foam shall not be used.
  - b. As shown on Exhibit "A", all windows shall either be single-hung, double-hung, or casement windows. Sliding windows shall not be used.
  - c. To insure compatibility with the existing house as viewed from Palm Avenue, windows shall not have grids or mullions on lots 1 or 5.

### **Landscaping**

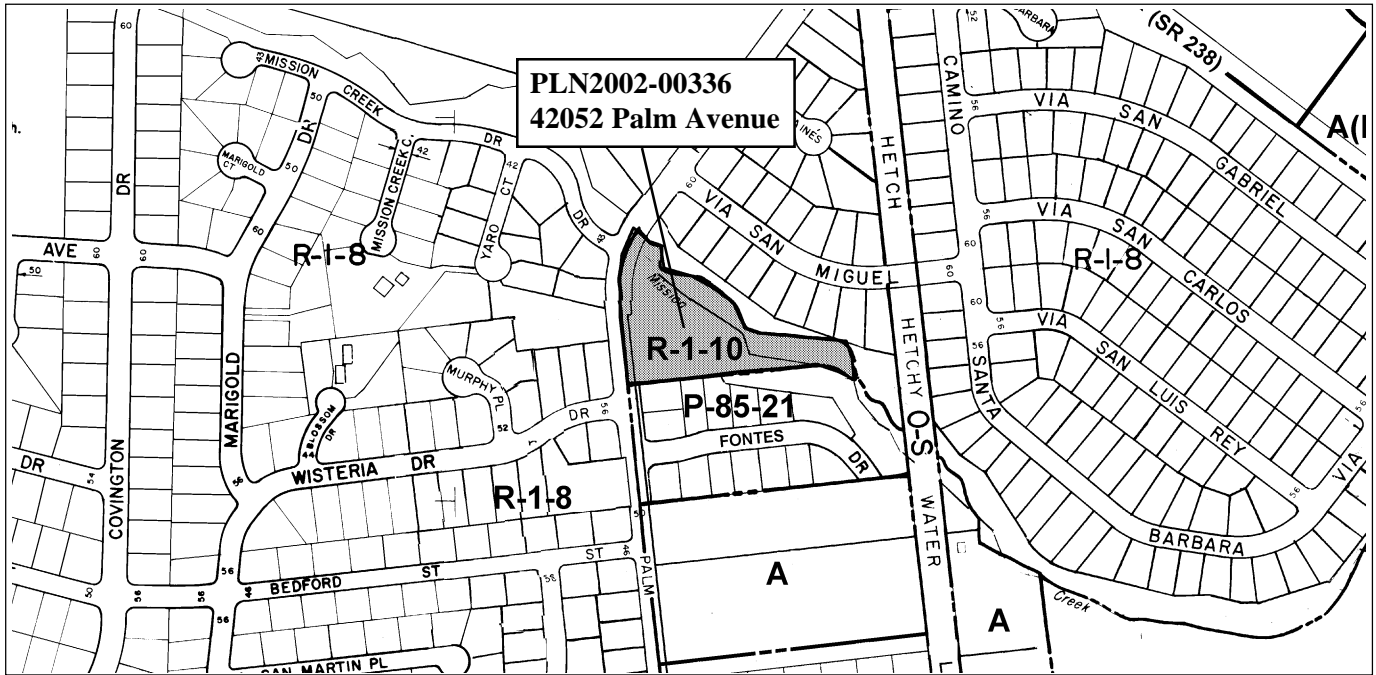
- D-1 All trees installed in City right-of-way shall be a minimum 24" box size. Due to the slow growing nature of Acer (maple) trees and Quercus (oak) trees, applicant shall also install these trees from 24" box containers. Trees installed in land to be dedicated to the County shall be reviewed for conformance with County and other agency requirements.
- D-2 Complete landscaping shall be provided at all front yards, and any yard visible from the public right-of-way or private street. Rear yard areas not visible from these areas do not require finished landscaping.
- D-3 Special or accent paving shall be provided at the private street, subject to staff review and approval during the Development Organization process. At a minimum, special paving shall be provided at the first fifteen feet of the private street, from the public right-of-way. Special paving may be either colored and scored concrete or interlocking pavers.
- D-4 A landscape plan shall be submitted to the Development Organization for review and approval, indicating full details regarding (1) paving materials and textures of walkways, (2) lighting of walkways and driveways with low intensity non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and parkway areas. As part of the landscape plan, the applicant shall submit to the Development Organization:
- a. An underground irrigation plan.
  - b. Weed control specifications.

- c. A lighting plan for the illumination of the building, driveways and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
  - d. Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate.
- D-5 Any trees onsite to be removed, except those required to be removed by the Alameda County Public Works, shall be subject to the provisions of the City's Tree Preservation Ordinance as applicable, and may require replacement.
- D-6 Under Planting Notes regarding Tree Planting, there is language about tree root barriers. The manner in which the note currently reads, it implies that tree root barriers are only necessary for street trees. This is not the case, the note shall apply to all trees.
- D-7 Any trees to be pruned shall be subject to the review and approval of the City's Landscape Architecture Division, and shall comply with the standards of the I.S.A. and ANSI A300 part I and companion best management practices.
- D-8 The height and location of fences shall be reviewed for conformance with Zoning Ordinance requirements and compatible design during the Development Organization review process. The applicant shall work with staff to refine the details of fencing and other architectural details as necessary through this process.
- D-9 No fence may be located parallel to and within five feet of the chain link fence at the pedestrian path/Alameda County Flood Control and Water Conservation District property. Fences perpendicular to the chain link fence may be provided. To address potential privacy issues, the developer shall plant vines (with associated irrigation) at the base of the chain link fence for screening.
- D-10 Fencing and landscaping at the south side lot 4 (the existing single-family house) shall be provided as shown on sheet L-2 of Exhibit "A", and not as shown elsewhere.
- D-11 Lighting associated with the project area shall be subject to staff review and approval during the Development Organization review process, and shall be of a pedestrian scale, and residential and decorative nature.
- D-12 All onsite signage, including directional signs, stop signs and other traffic signs, etc., shall be installed on 4x4 pressure treated wood posts (and NOT galvanized metal posts) wherever possible, subject to staff approval.

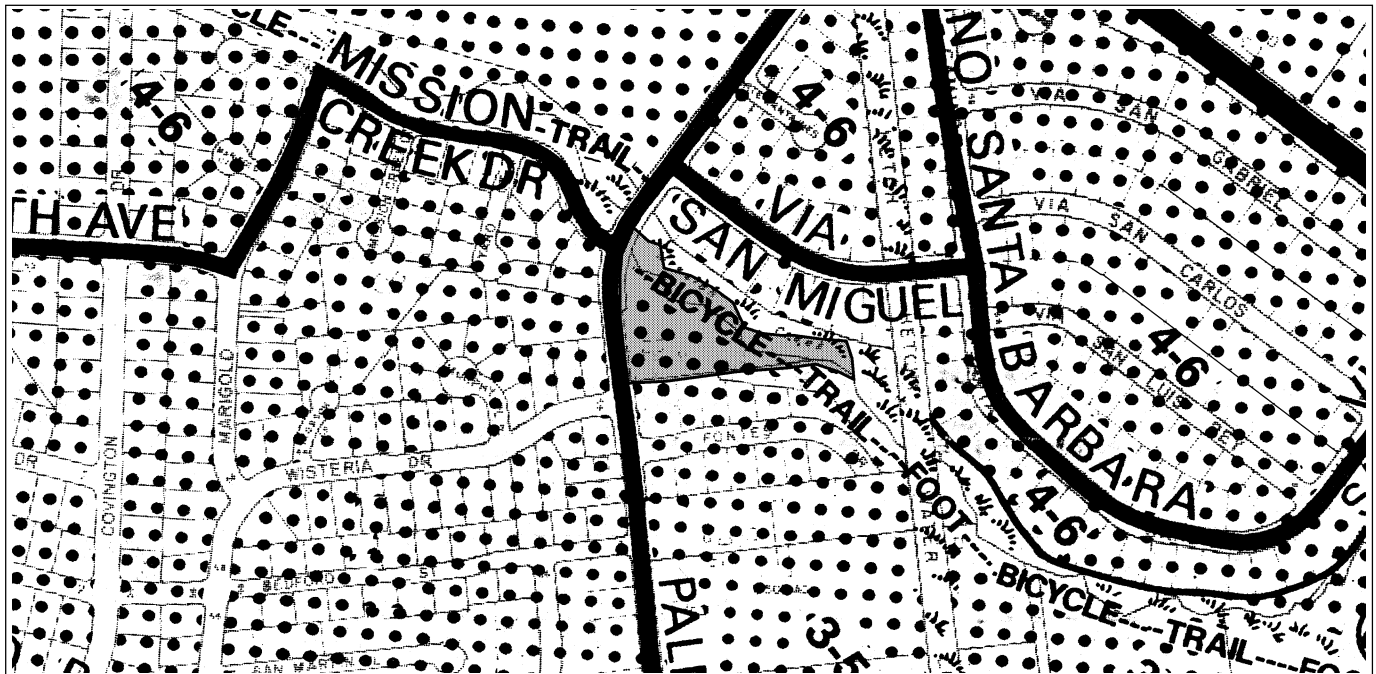
### **Engineering Conditions**

- E-1 A tentative tract map, preliminary grading plan, and private street application shall be submitted for Planning Commission review and approval.
- E-2 Prior to issuance of any permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed with the State of California Water Resources Control Board. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
- E-3 The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

# INFORMATIONAL



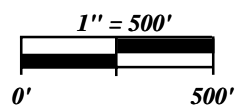
Existing Zoning



Existing General Plan

**Project Number:** PLN2002-00336 (Preliminary & Precise)  
**Project Name:** Palm Avenue 5-Lot Planned District  
**Project Description:** To consider a Preliminary and Precise Planned District rezoning for a five lot single family development on 1.61 acres located in the Mission San Jose Planning Area. A Mitigated Negative Declaration has been prepared for this project.

**Note:** Prior arrangements for access are not required for this site.



# EXHIBIT "B"

Attached to and made a part of

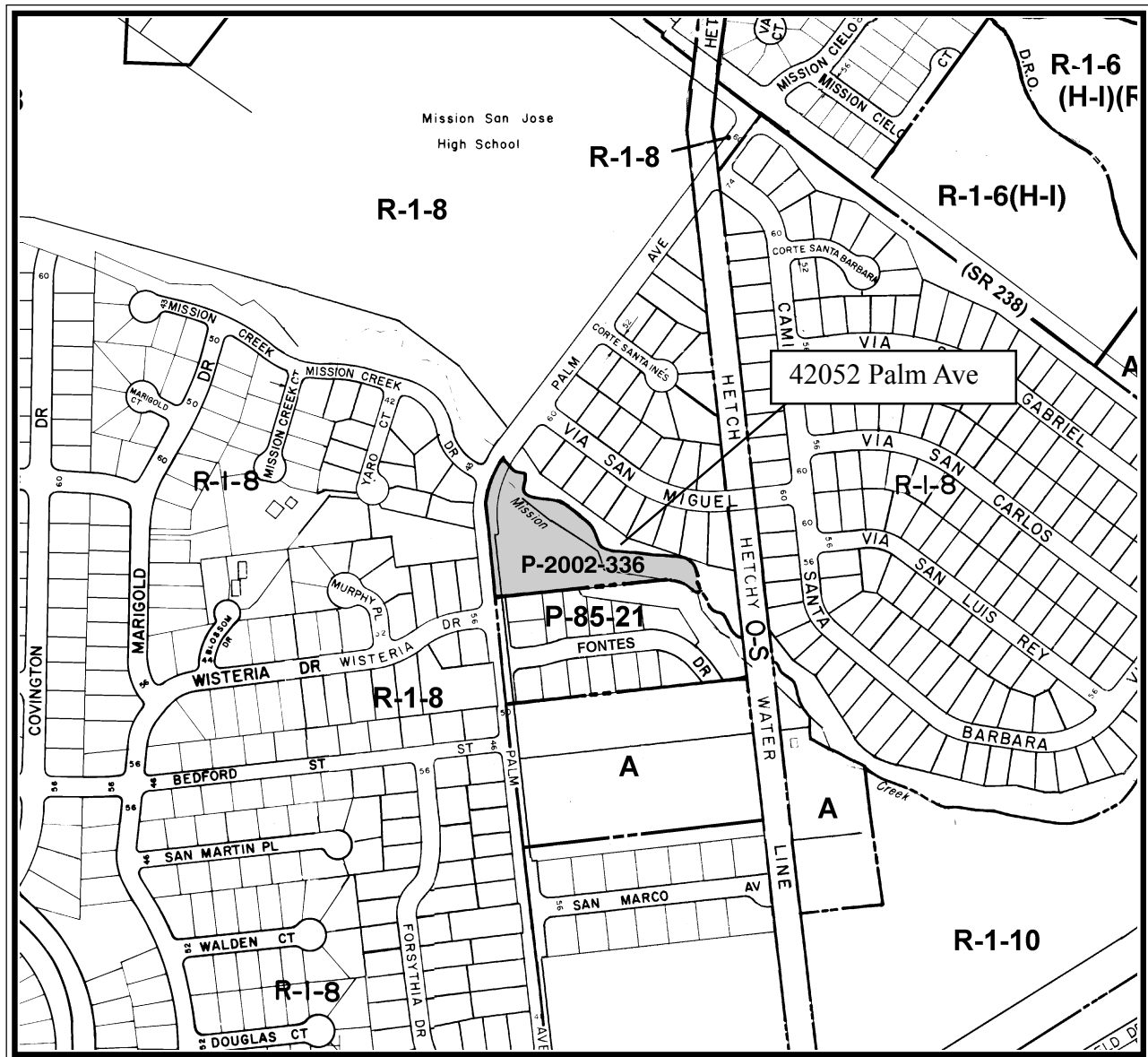
**Ordinance No.** \_\_\_\_\_

adopted by the City Council of the City of Fremont, California

**On the** \_\_\_\_\_ **day of** \_\_\_\_\_, **20**03.

## ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE INDUSTRIAL PLANNING AREA



From: R-1-10

To: P-2002-336

[pc on 07-04-03] 78-380, 84-380

**Project Name:** Palm Avenue 5-Lot Planned District

**Project Number:** PLN2002-00336 (pd)

*[Signature]*